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No. 78-983

In the Supreme Court of the United States

OCTOBER TERM, 1978

IDAHO ASSOCIATION OF NATUROPATHIC PHYSICIANS, INC., ET AL., PETITIONERS

v.

FOOD AND DRUG ADMINISTRATION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE FEDERAL RESPONDENTS

WADE H. MCCREE, JR.
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Department of Justice
Washington, D.C. 20530

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Petitioners are practitioners and students of naturopathic medicine, patients desiring naturopathic treatment, and associations promoting naturopathy, who have challenged a variety of state and federal regulations and statutes that they contend improperly restrict the practice of naturopathic medicine (Pet. App. B-2). For the most part, the challenge is to state and local licensing practices (Pet. App. B-4 to B-7).

The judgment of the court of appeals deals solely with the district courts' dismissal of certain state and local officials who regulate medicine and pharmacy (Pet. App. B-3, C-15, D-15 to D-16, E-2, F-2). Although petitioners also challenged certain federal statutes and regulations, and the district court dismissed the complaint against the

federal respondents in substantial part, petitioners did not appeal this decision to the court of appeals.[1]

Since the judgment at issue here did not decide any question concerning the federal parties, and because the petitioners do not seek any relief from this Court that would affect the federal parties, the federal respondents take no position concerning the proper disposition of the petition.[2]

Respectfully submitted.

WADE H. MCCREE, JR.
Solicitor General

MARCH 1979

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[1]A portion of the complaint against the federal respondents remains on the docket of the Maryland district court.

[2]We have no reason to disagree with anything the court of appeals said in rejecting petitioners' contentions on the merits. See also *Friedman* v. *Rogers*, No. 77-1163 (Feb. 21, 1979), slip op. 16 n.19 (the Due Process Clause places few limits on the authority of states to regulate the professions).

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